

***United States Court of Appeals
for the Second Circuit***



APPENDIX

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75-1343

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

Docket No. 75-1343

UNITED STATES OF AMERICA,

Appellee,

—against—

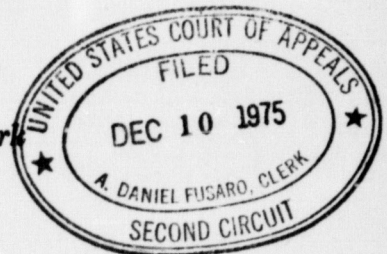
CARLOS FAYAD and PAULA DALLAL,

Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

DAVID G. TRAGER,
*United States Attorney
Eastern District of New York*



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Cavuto - direct

MR. BEHAR: The Government will call Mr. Cavuto to the stand.

ALFRED CAVUTO, called as a witness, having been first duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. BEHAR:

Q Mr. Cavuto, what is your occupation?

A I'm a special agent with the Drug Enforcement Administration.

Q How long have you been a special agent with the Drug Enforcement Administration?

A For four years.

Q Mr. Cavuto, do you recognize anyone else in this Courtroom besides myself and counsel?

A Yes, I do.

Q And who might that be?

A I recognize Paula Dallal and Carlos Payad.

Q Mr. Cavuto, when was the first time you met the defendant Paula Dallal?

A On March 7, 1975.

Q And where?

A It was in her apartment.

Q Do you recall the address?

2 Cavuto - direct

A Yes, I do.

Q What was it?

A 2150 41st Avenue, in Bayside.

Q Is that in Queens?

A Yes, it is.

Q Was anyone else present when you first met
her?

A Yes.

Q Who else was present?

A A roommate of Paula Dallal and a Government
informant.

Q And at the time you first met Dallal, were you
on duty?

A Yes, I was.

Q What was your specific assignment on that date?

A I was working as an undercover agent.

Q When you met Dallal, did you have a conversation
with her?

A Yes.

Q Do you recall that conversation?

A Yes.

Q Could you state it to the Jury, please?

A Yes. I was introduced to her and then immediately after, we were introduced, she said, "You're late. I got

3 Cavuto - direct

2 a call from Robby and someone wants to buy a quarter of an
3 ounce. You're supposed to be here at 4:00 o'clock. What
4 happened?"

5 So we told her we got stuck in traffic and
6 there was no way we can call from the car. So she said, "Well,
7 I told him to go ahead and sell the quarter of an ounce.
8 What do you want to do?"

9 So I told her, "We'll take the three-quarters
10 of an ounce."

11 So she said, "Okay, the price will be \$900."
12 And she said he was going to call back and we were to wait
13 for his call.

14 Q Did he call back?

15 A Yes, he did.

16 Q Did you have a conversation with Dallal follow-
17 ing that?

18 A Yes. We waited for him to call and I asked
19 her about the quality of this cocaine we were going to pur-
20 chase. And she said, "Don't worry," she said, "I brought
21 other people to O'Brien and they copped the grams and there
22 were never any problems."

23 MR. KAPLAN: Your Honor, I object and move to
24 withdraw a juror.

25 THE COURT: Denied.

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Cavuto - direct

MR. KAPLAN: Your Honor, that is not the charge in the indictment.

THE COURT: Denied.

MR. KAPLAN: Respectfully except.

MR. BEHAR: Mr. Reporter, would you read back the last answer?

(Answer read.)

BY MR. BEHAR:

Q Do you recall what was said after that?

A She asked me if I wanted to purchase a Thai stick.

Q Continue with the conversation, Agent Cavuto.

A And I said, I really wasn't interested and I asked her to see it. She showed me the Thai stick.

THE COURT: What's a Thai stick?

Q Would you describe it, agent?

A It's a small stick, about six inches long, and it had marijuana wrapped around it.

MR. KAPLAN: Your Honor, same objection, same application, respectfully.

THE COURT: Same ruling.

MR. TIRELLI: Your Honor, I would like to join the application because it is inflaming the Jury.

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Cavuto - direct

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THE COURT: Same ruling.

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MR. TIRELLI: With these questions.

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Respectfully object.

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THE COURT: Ladies and gentlemen of the Jury,

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I will instruct you at the termination of the case

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with respect to any similar acts at or about the same

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time that the offense is charged.

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Those similar acts may be used -- it is

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sufficient for your purposes to bear in mind that

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those similar acts, if you find them to be similar, may

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be used on the question of knowledge and intent of

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the person who does the acts.

14

Go ahead.

15

BY MR. BEHAR:

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Q I'm sorry, Agent Cavuto. You were describing

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the Thai stick?

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A She showed me the Thai stick and I told her

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I wasn't interested and then she showed me an ounce.

20

She said it was an ounce of gold. It was

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yellow marijuana and she told me she was going to sell it

22

to someone later.

23

Q What if anything happened after that?

24

A Then we waited in the apartment and a short

25

time later, she received a phone call and she made arrangements

6 Cavuto - direct

with the caller to meet him at 34th Avenue and -- 34th Avenue and 81st Street, in Jackson Heights, at 5:30.

When she completed the call, she told me she said that it's Robby. "We're going to meet him at 5:30 at 81st Street and 34th Avenue."

Q What if anything did you do at that point, Agent Cavuto?

A At the time we left the partment.

Q Where did you go?

A Into my car.

Q Would you describe the car, please?

A Yes. It was a yellow Volkswagen.

Q Was it your personal car?

A No, it was not.

Q Who owned the car?

A It was a Government vehicle.

Q Was it marked as a Government vehicle? Did it bear any insignia?

A No, it did not.

Q Where did you sit in the car?

A I sat in the driver's seat.

Q Who else got into the car?

A The Government informant sat in the passenger seat and Miss Dallal sat in the rear seat.

7

Q What did you do once you got in the car?

A I showed her the money that I had, counted out the \$900, because I wanted her to know that I had the money, and I told her there were not going to be any problems, I had the money and I wanted to know what we had to do.

Q And did you drive the car?

A Yes.

Q Where did you drive it to?

A Miss Dallal gave me directions and we drove to 81st Street and 34th Avenue.

Q What, if anything, happened when you arrived at that location?

A We got out of the car and myself and Miss Dallal and we waited for her source, her connection, to arrive.

Q And did you have a conversation with Miss Dallal while you were waiting?

A Yes.

Q Was it pertaining to this transaction?

A Yes, it was.

Q Do you recall the conversation?

A On the corner of 34th Avenue and 81st Street, there is a church and adjacent to it there is an apartment building with an alleyway and she pointed to the alleyway and said that Robby often comes from that alleyway when she

1 8 Cavuto - direct

2 meets him.

3 A short time later, I saw Robert O'Brien come
4 from the alleyway and walk towards myself and Miss Dallal.

5 Q The same Robert O'Brien who was here yesterday?

6 A That's correct.

7 Q What if anything happened when O'Brien approached
8 you and Miss Dallal?

9 MR. KAPLAN: Your Honor, I object to the lead-
10 ing.

11 THE COURT: Stop leading.

12 Overruled. It is not leading. Overruled.

13 If you want to make an objection, please rise,

14 I'm sorry, your Honor.

15 MR. KAPLAN: Respectfully object to leading the witness,
16 Judge.

17 THE COURT: You're overruled.

18 THE WITNESS: O'Brien began to walk towards
19 us. At that time Miss Dallal left me and walked
20 towards him and they met about 15 or 20 feet from me,
21 and seemed to be talking to one another and then she
22 brought O'Brien to me and she introduced O'Brien to
23 me.

24 BY MR. BEHAR:

25 Q What if anything happened at that time?

1 9

Cavuto - direct

2 A We all got into the car.

3 Q Where did you sit?

4 A I sat in the driver's seat.

5 Q There is the same undercover vehicle?

6 A Yes.

7 Q And where did Miss Dallal sit?

8 A She sat in the rear, behind me.

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fls.

10 (Continued on next page.)

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DIRECT EXAMINATION

BY MR. BEHAR: (Cont'd.)

Q And where did Mr. O'Brien sit?

A In the rear but diagonally across from me.

Q Once you got into the car, what, if anything, occurred?

A I told O'Brien that before I purchased any cocaine, I wanted to test it. I had a special solution and I would test it. He said, okay. He said we have to keep moving. And he suggested I start driving. I did. I began driving on 61st Street towards Northern Boulevard.

Q What, if anything, occurred at that point?

A At that time we approached a busy intersection, 81st and Northern and the light was red. I handed the test tube to the government informant and I saw O'Brien reach into his pocket and take out a plastic bag with some white powder. He opened the bag and the government informant placed the small portion of the powder into the test tube and I put some of the solution in it.

Q What, if anything, -- occurred after that?

A After he put the solution in it, I noticed that it made a proper color change.

Q What was the solution, Agent Cavuto?

A The solution is a -- solution supplied by our

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lab, which will indicate the presence of cocaine.

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MR. KAPLAN: I object.

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MR. TERELLI: Objection.

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THE COURT: No. I will allow it.

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MR. TIRELLI: Your Honor, he's not an expert.

7

THE COURT: He's been with the DEA for four

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years.

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MR. TIRELLI: Respectfully --

10

THE COURT: Overruled.

11

BY MR. BEHAR:

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Q Agent Cavuto, you were saying?

13

A The solution will indicate by a color change

14

the presence of cocaine when it's mixed with the powder and

15

it did. It gave the correct color change.

16

Q What was the color it came out?

17

A It turned blue. By this time we were on

18

Northern Boulevard.

19

Q The light had changed?

20

A Yes.

21

Q What happened once you got on to Northern

22

Boulevard?

23

A I looked at the color. I saw it was good and

24

I said it looks good and I handed O'Brien the \$900 and he handed

25

me the package of cocaine.

I to understand --

THE COURT: These are exhibits. He doesn't take down what he hears on the tape.

MR. KAPLAN: I thought he would.

THE COURT: No.

MR. KAPLAN: To make the record complete.

THE COURT: No. That's not the practice.

MR. KAPLAN: In case of Appellate review, your Honor.

THE COURT: You mark these. They go up and they play them up there if they want to hear it.

MR. KAPLAN: All right.

THE COURT: Let's go.

(In open court.)

DIRECT EXAMINATION

BY MR. BEHAR: (Cont.)

Q Agent Cavuto, what did you understand Miss Dallal to mean by a "spoon of zoom"?

MR. KAPLAN: Objection, your Honor.

THE COURT: Do you know what a "spoon of zoom" means?

THE WITNESS: NO, I don't.

THE COURT: All right.

Is that what she said, "spoon of zoom"?

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Q Did you tape record that conversation?

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A No, I didn't.

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Q Could you tell us what the conversation was, sir?

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A Paula told me that she had heard from Robby and that it was set for either Tuesday or Wednesday but she told him we'd do it on Wednesday and she said that Robby had told her that I would not believe the quality of this ounce compared to last time and that the price would be \$1300.

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And she asked me to call her the following evening.

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(continued next page.)

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3 Cavuto - direct

is it set?"

And she say, "Yes," and she said, "well, meet me in front of Bell Boulevard."

Q Did you meet her in front of Bell Boulevard?

A In front of 1325 Bell Boulevard ; I did.

Q Approximately what time did you reach her?

A About quarter to 8:00.

Q And was Miss Dallal dressed?

A Yes, she was.

Q Where was she when you arrived there?

A She was standing in front of the house.

Q And how did you arrive there?

A In a car.

Q Was it your own car?

A No, it wasn't.

Q Was it an undercover vehicle?

A Yes.

Q What kind of undercover vehicle?

A It was a Corvette.

Q It didn't bear any markings?

A No, it didn't.

Q Well, when you arrived there what, if anything, occurred?

A I saw Dallal standing in front of the building and then she came into the car.

4

Cavuto - direct

Q Did you have a conversation?

A Yes.

Q Do you recall the conversation?

A Yes, she said, "We will meet Robby at the same place we met him last time," and we drove there.

Q And where was that?

A 81st Street and 34th Avenue in Jackson Heights.

Q Near the church?

A Yes.

THE COURT: This is on April 30?

THE WITNESS: Yes, this is on April 30.

Q What, if anything, occurred when you arrived at that location?

A We got out of the car and waited for O'Brien to arrive.

Q Well, relative to this case, did you have a conversation waiting for Mr. O'Brien to arrive?

A No.

Q Did Mr. O'Brien arrive?

A Yes.

Q What, if anything, occurred when Mr. O'Brien arrived?

A We greeted one another and then we started talking about -- talking about Indian jewelry.

5 Cavuto - direct

THE COURT: What? Indian jewelry?

THE WITNESS: There was a conversation about
Indian jewelry.

BY MR. BEHAR:

Q Aside from the conversation about the Indian
jewelry, following that was there a conversation relative to
this case?

A I told O'Brien that I had some appointments
that evening and I asked him, "Let's get started."

MR. KAPLAN: Your Honor, I let it go a
couple of times. The word "relative to the case"
I object to.

THE COURT: Your objection is overruled.

MR. KAPLAN: Exception.

THE WITNESS: I told him, "Let's get going,"
because I had to go somewhere. I asked him if he
wanted to do the same as last time and he said, "Yes,
we have to keep moving," and all three of us got
into the car.

BY MR. BEHAR:

Q Where did you sit?

A I sat in the driver's seat.

Q Where did Miss Dallal sit?

A Between myself and Mr. O'Brien on the console.

6 Cavuto - direct

Q Yes.

A Half on the console and half off his seat.

Q What, if anything, occurred at that point?

A We drove up 81st towards Northern Boulevard.

Q While driving in that area, did you recognize any of the vehicles in the area?

A Yes, I did.

Q What vehicles did you recognize?

A I saw some of the surveillance agents' cars parked in the area.

Q I am sorry. I had interrupted you.

You got into the car?

A Up 81st Street to Northern Boulevard and O'Brien told me I could pull off on any of the side streets on Northern Boulevard and I said I would and I noticed that he was holding a small bag with white powder in his hand and I made a right up 84th Street and parked near 84th Avenue and he handed me the package of cocaine and I handed him the money and he counted the money and handed Miss Dallal the hundred dollars and I tested the package and told him I was satisfied with the package.

THE COURT: You gave him the money?

THE WITNESS: I gave O'Brien the 1300.

Q When you say you tested the package, how

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Cavuto - direct

She told me while she was living in the apartment her and her roommate Irene had made a list of the different people that they have dealt with and she said, it come out to be 68 people.

MR. KAPLAN: May we have a side bar?

THE COURT: It's conversation.

MR. KAPLAN: Move for the removal of a juror.

THE COURT: Denied.

MR. KAPLAN: May we come to the side bar?

THE COURT: What for?

Q You may continue.

A We drove back to Bayside and I let Dallal out of the car in the vicinity of her parents' home.

Q Do you recall any other part of that conversation as you were driving back with Miss Dallal?

A Not at this time, I don't.

Q Agent Cavuto, you said Miss Dallal wrote down Mr. O'Brien's telephone number for you?

A Yes.

Q Do you have that piece of paper?

A Yes.

Q May I have it, please?

(Document handed to counsel.)

Q Where did Miss Dallal write down that telephone

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THE COURT: 15.

MR. KAPLAN: Same, your Honor. Same objection.

THE COURT: Same ruling.

THE CLERK: Government's Exhibit 15 received
in evidence.

(So marked.)

MR. BEHAR: Be sure you have your switches "on."

Excuse me. Does anyone have trouble with
their head phones?

THE COURT: Do they have copies of the transcript?

MR. BEHAR: Sorry, your Honor.

(Government's Exhibit 15 in evidence being
played, a tape.)

BY MR. BEHAR:

Q Agent Cavuto, what, if anything, occurred after
that telephone call?

A I drove to O'Brien's home.

Q As you were approaching O'Brien's apartment,
did you notice anything?

A Yes.

Q What?

A I noticed a surveillance van parked across the
street.

Q Was it marked?

xx

1
2 A No, it was not.

3 Q When you say a van, you mean, a truck type van?

4 A Like a camper.

5 Q It was parked across the street from O'Brien's
6 apartment house?

7 A It was parked diagonally from O'Brien's apart-
8 ment house on Skillman Avenue.

9 Q When you arrived at the area of O'Brien's
10 apartment house, was O'Brien there?

11 A No, he was not.

12 Q What, if anything, did you do?

13 A I got out of the car and went into the
14 vestibule and rang the bell and I returned to the car.

15 Q Did he arrive?

16 A O'Brien?

17 Q Yes.

18 A Yes. I saw him come out of the apartment with
19 a -- with another man and two women.

20 Q How long after you rang the bell did he arrive?

21 A About a minute.

22 Q And what time was it when he came out of the
23 apartment, the man and the two women?

24 A It was approximately 10:55.

25 Q What, if anything, happened at that point?

1
2 A O'Brien got into the car with me.

3 Q And what car was that?

4 A The undercover Corvette.

5 Q What, if anything, occurred when O'Brien got
6 into the car?

7 A He told me where he had the cocaine and then we
8 -- prior to leaving I saw the two people that came out of the
9 apartment with him and I asked him: Is that your man and he
10 said, no.

11 That was someone who had just come by to pick
12 up something.

13 He said, "My man is in my house now."

14 And then we drove off down Skillman Avenue,
15 made a left onto Skillman and drove down Skillman.

16 Q Did you have a conversation with O'Brien?

17 A Yes.

18 Q Do you recall the conversation?

19 A Yes.

20 He reached -- got up and got the cocaine which
21 was in his pants and took it out and then I handed him the
22 test tube and explained how to perform the test.

23 He performed the test because I was driving
24 the car.

25 Q What, if anything, occurred at that point?

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2 A He performed the test. I asked him if he had
3 weighed it and he said he did. He said yes. Then he
4 performed the test and it was positive for cocaine and at
5 that time I gave a word signal and a visual signal to the
6 surveillance agents who were also in the area.

7 Q That conversation you had with O'Brien, was
8 that recorded?

9 A Yes, it was.

10 Q Could you describe the nature of that
11 recording, how that recording was made?

12 A Yes. Prior to leaving our office, a Kel
13 transmitter was secreted in the car and what it would do is
14 it would transmit or attempt to transmit the conversation
15 to a receiver which was in another car.

16 Q And how does that differ from the other
17 recordings that we have heard today?

18 A The difference is that the transmitter is not
19 attached to the receiver. It's a shortwave. Sends out signals
20 which are picked up by the receiver and the clarity of the
21 conversation isn't as good.

22 Q So what you are saying is the other recordings
23 you made with a direct receiving device, the microphone
24 was --

25 MR. KAPLAN: I object.

2 1 Cavuto-direct

2 (The following transpired in open court:)

3 THE COURT: Ladies and gentlemen, there is
4 going to be about a two-minute preliminary run where
5 you listen to Agent Cavuto's engine. Be patient.
6 Defense counsel say they want to hear the entire
7 tape, so we must all bear with it.

8 (Tape played.)

9 MR. KAPLAN: Would your Honor entertain an
10 application?

11 Move to strike that tape. It is inaudible
12 and it makes it completely incomprehensible.

13 THE COURT: Motion denied.

14 MR. KAPLAN: Respectfully except.

15 THE COURT: You do not have to except, if you
16 know the Federal Rules.

17 BY MR. BEHAR:

18 Q At that point, Agent Cavuto, what, if anything,
19 occurred?

20 A O'Brien was arrested by the surveillance
21 agents and I seized the cocaine which was on the floor of
22 the car inbetween his legs.

23 THE CLERK: One plastic case with contents
24 marked for identification is Government's exhibit
25 19.

defendant Paula Dallal?

A The next time I saw Paul Dallal was on June 18.

Q Where were you at that time?

A I was on surveillance in front of her residence. in the vicinity of her residence.

Q What address was that?

A 13 -- I'm not sure of the address. It's in Bayside.

Q Would anything refresh your recollection?

A Yes. My report. Yes, the address is 1384 209th Street, Bayside, Queens.

Q You said this was her residence.

Was this the same address that you had seen Miss Dallal at on the two other occasions that you had testified to when you met Miss Dallal and then met Mr. O'Brien?

A No, this is a different residence.

Q And at that time what, if anything, -- well, where in reference to that residence did you first see Miss Dallal on that day?

A I saw her cross the street.

Q And what time of day was this?

A It was early in the morning.

Q And you saw her across the street from the

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residence?

A No. I saw her cross the street.

Q In the vicinity of that residence?

A Yes.

Q And what, if anything, occurred at that time?

A I observed her and another man go to the bus stop and eventually get on to a bus which went into Manhattan.

Q What, if anything, did you do?

A Followed the bus.

Q When did you next see Miss Dallal?

A When she got off the bus.

Q And where was this?

A This was in the vicinity of Sixth Avenue and 36th Street.

Q What, if anything occurred at that time?

A She got out, she started to cross Sixth Avenue. Myself and another agent, Agent Chellino approached her and I called her and when she stopped, we both approached her and I told her I have an arrest -- a warrant for her arrest.

Q What, if anything, occurred at that point?

A She asked to see the warrant.

Q What, if anything, did you do?

1
2 A I showed her the warrant.

3 Q Excuse me?

4 A I showed her the warrant.

5 Q What, if anything, occurred after that?

6 A Then we went into our car and at that time I
7 gave her her rights. I read her her rights. And we drove
8 her down to the New York Office of DEA.

9 Q You say you read her her rights.

10 Did you read it from a form?

11 A From a card.

12 Q Do you have that card with you?

13 A Yes, I do.

14 Q Do you recall the exact words that you read to
15 her?

16 A I read the card. I read right from the card.

17 Q Would you do so now, please.

18 A Yes.

19 I said: "Do you understand you have the right
20 to remain silent?

21 "You understand that anything you say can and
22 will be used against you in Court or other proceedings?

23 "Do you understand that you have a right to talk
24 to a lawyer before we ask you any questions and to
25 have him with you during questioning?

3aml

O'Brien-direct

1
2 Q And at that time you stated that you would
3 not enter a plea --

4 A Yes.

5 Q -- you would not testify, is that correct?

6 A Yes.

7 Q And at the time you did plead guilty you pled
8 guilty to one of four counts, is that correct?

9 A Yes.

10 Q Were any other promises made to you?

11 A No.

12 Q Did anyone from the United States Attorney's
13 Office or anyone connected with the Government at all tell
14 you what kind of sentence you would get?

15 A No.

16 Q And you pled guilty in this Court?

17 A Yes.

18 Q Before Judge Platt?

19 A Yes.

20 Q Now, Mr. O'Brien, referring to the 7th day of
21 '75, on that date did you sell 21 grams of cocaine to a
22 fellow who you knew then as Allen, who turned out to be
23 Special Agent Cavuto?

24 A Yes.

25 Q And did that sale take place in a Volkswagen

O'Brien-direct

automobile?

A Yes.

Q And was Miss Paula Dallal present there?

A Yes.

Q And did Miss Dallal --

MR. KAPLAN: I object to the leading constantly.

THE COURT: We will try it the other way. He is not necessarily bound, but we will try it and see how it comes out.

Q Did anyone introduce you to Agent Cavuto on that day?

A Yes.

Q Who?

A Paula.

Q The defendant Miss Dallal?

A Yes.

Q Mr. O'Brien, on the 30th day of April 1975 in a Korvette automobile did you sell 28 grams of cocaine to Agent Cavuto?

A Yes.

Q And was anyone else present in that Korvette automobile on that day?

A Yes.

O'Brien-direct

Q And who was there?

A Paula.

THE COURT: Paula being the defendant?

THE WITNESS: Yes.

Q And prior to that time did you speak to anyone about that proposed sale?

A Well, I don't know --

Q Did you have a conversation with the defendant prior to that sale of cocaine to Agent Cavuto, the defendant Paula Dallal prior to the sale of the cocaine --

MR. KAPLAN: I object to the form. I don't understand the question.

THE COURT: Will you read the question back, Mr. Simon.

(Record read.)

THE COURT: You had better rephrase it. There are two questions in one.

MR. BENAR: Yes, I am sorry.

Q Prior to the sale of the 28 grams of cocaine on April 30, 1975 within a period of three days prior to that did you have a conversation with the defendant Paula Dallal?

A Yes.

MR. KAPLAN: Again it is leading, your Honor.

O'Brien-direct .

THE COURT: How many grams is that?

THE WITNESS: 28 grams.

MR. KAPLAN: Your Honor, I object to the form of every question. The use of "cocaine" is a conclusion. We have no report. He chemist has testified. He can refer to an Exhibit number, your Honor.

THE COURT: Overruled.

Q Before you purchased this cocaine from Mr. Fayad did you discuss this purchase with him?

A Well, yes, I asked him if he could get it for me.

THE COURT: When you asked him if he could get "it" what did you mean?

THE WITNESS: Cocaine.

Q What did he reply?

A Yes.

Q And when did you have this discussion?

A Right after I first talked with Allen.

Q Mr. O'Brien, as to the cocaine that you sold to Agent Cavuto --

MR. BAHAR: I am sorry.

Q On the 21st day of May 1975 did you again meet Agent Cavuto?

O'Brien-direct

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A Yes.

Q Were you carrying anything at the time you met
Agent Cavuto?

A I was carrying the cocaine.

Q What if anything were you expecting to do with
Agent Cavuto at that time?

A I was expecting to make a sale.

Q For how much money?

A \$8600.

Q How much of that money were you going to keep?

A \$400.

Q And how much cocaine were you expecting to sell?

A Eight ounces.

Q And from whom did you receive that cocaine?

A From Carlos.

Q The defendant Carlos Fayad?

A Yes.

Q When did you receive that cocaine from Carlos
Fayad?

A About an hour before I met Allen.

Q And where did you receive the cocaine from
Carlos Fayad?

A In my apartment.

Q Were there other people present in the

O'Brien-direct

apartment?

A Yes.

Q Where were the other people in relation to you when you received that cocaine from Carlos Fayad?

A In the living room.

Q Where were you?

A In the kitchen.

Q And where was Carlos Fayad?

A In the kitchen.

Q Was anybody in the kitchen?

A No.

Q Did you talk to Mr. Fayad about --

MR. BEHAR: Withdrawn.

Q How much were you supposed to pay Mr. Fayad for this cocaine?

A \$8200.

Q Prior to Mr. Fayad giving you this cocaine had you talked to him about this transaction?

A Just once.

Q And do you recall when that was?

A A few days before.

Q Do you recall the conversation?

A I had asked him if he could get it and he said he didn't know. He would try. And at first I didn't

2 O'Brien - direct

Q And when did you return from California?

A Around the third week of April.

Q Did you ever give Miss DALLAL anything for the sale on April 30th, 1975?

A Yes.

Q What?

A A hundred dollars.

MR. BEHAR: Excuse me, just one moment, your Honor.

THE COURT: All right.

We will take a five minute morning recess.

Ladies and gentlemen, do not discuss the case.

(Recess taken.)

(Jury present.)

DIRECT EXAMINATION

BY MR. BEHAR: (Cont.)

Q Referring again to the 21st day of May, 1975, Mr. O'Brien, before the moment that Mr. Fayad gave you the cocaine in your apartment or indeed contemporaneous, at that very moment, did you give Mr. Fayad any money?

A No.

Q When were you going to pay him for that cocaine?

MR. TIRELLI: Objection, your Honor.

It asks for a future decision.

THE COURT: Were you going to pay him?

1
2 A Yes, we were in the undercover vehicle.

3 Q What if anything occurred?

4 A I heard the code word over the Kel receiver.

5 Q What was the word?

6 A It was dynamite.

7 Q What if anything did you do?

8 A Around 41st Street and Skillman Avenue, I
9 arrested Robert O'Brien who at that time was sitting in the
10 passenger side of the undercover vehicle.

11 Q What if anything occurred after you arrested
12 Mr. O'Brien?

13 A At that time I put Mr. O'Brien in the other
14 undercover vehicle that Special Agent Baker was in and I
15 advised Mr. O'Brien of his constitutional right to remain
16 silent.

17 Q Following that, did you have a conversation
18 with Mr. O'Brien?

19 A Yes. I had a conversation with Mr. O'Brien
20 in which we asked him from whom he had gotten the cocaine.
21 He had told me that he had received the cocaine from an
22 individual known to him as Carlos and that Carlos was presently
23 in his apartment awaiting his return.

24 He told me that He was to pay Carlos \$8200 for the
25 cocaine and that Carlos was a latin male, that he had dark

1
2 hair, black hair, and he had a brown check suit jacket on.

3 He also told me that Carlos was the only male in his
4 apartment at that time and there were two females in his
5 apartment.

6 Q Did there come a time when you left Mr. O'Brien
7 that evening?

8 A Yes, at approximately 11:15 p.m., after
9 Mr. O'Brien placed the telephone call to his apartment,
10 utilizing his key I returned to the apartment 4105 52nd
11 Street in Woodside and I entered Apartment 1-C.

12 Q What happened to Mr. O'Brien?

13 A He was maintained in custody by other Special
14 Agents.

15 Q You entered the apartment, do you recall what
16 if anything you saw when you entered the apartment?

17 A As I entered the apartment I went directly
18 into the living room at which point I observed Carlos Fayad,
19 Martha Schlesinger, and Janie Sue Suttle sitting in the
20 living room.

21 Q You say you observed Carlos Fayad, do you see
22 him here today?

23 A Yes.

24 Q Point him out.

25 A To the left of Mr. Tirelli in the blue suit

1
2 (indicating).

3 MR. BEHAR: Identification conceded, counsel?

4 MR. TIRELLI: Conceded.

5 Q When you first saw Mr. Fayad, what if anything
6 was he wearing?

7 A He was wearing a dark shirt and slacks. The
8 brown suit jacket if I recall correctly was over one of the
9 chairs in the living room, to the best of my recollection.

10 Q What if anything happened at that point?

11 A At that time I announced to Carlos that he was
12 under arrest. I informed Carlos Fayad he had a right to
13 remain silent, anything he said would and could be used against
14 him in a court of law. He had a right to an attorney. If
15 he couldn't afford an attorney an attorney would be appointed
16 by the Court.

17 I also informed him that he had a right to answer
18 questions or make statements with or without an attorney and
19 he could stop making the statements or making answers to
20 the questions for the purpose of consulting with an attorney.

21 I asked him at that time if he understood his rights
22 and he replied yes. He stated to me at that time, "I am
23 clean, I have nothing."

24 Q After he made the statement, what if anything
25 occurred?

1
2 A At that time I segregated Mr. Fayad from the
3 other two individuals in the apartment by escorting him to
4 the rear room of that apartment. It was the bedroom.

5 At that time, I informed Mr. Fayad that we had arrested
6 Robert O'Brien and we had seized the eight ounces of cocaine
7 and I knew he was the source for the eight ounces of
8 cocaine.

9 I asked Mr. Fayad at that time if there was enough
10 time so that people he may have been working with in conjunc-
11 tion with this would become suspicious or wanted a call from
12 him or whatever other contact he may have to make with them,
13 and he said yes.

14 I asked Mr. Fayad from whom he had received the cocaine
15 and he had told me from Fernando Anzola. I asked him how much
16 he made and he told me he was to return with \$8,000 to
17 Fernando Anzola and \$200 was his to keep as his part of the
18 transaction.

19 I asked him where Anzola lived and he told me he lived
20 on 94th Street, if I recall correctly, and an avenue in the
21 40s, but he didn't know exactly where.

22 I asked him when he was to return with the money or
23 what contact he was supposed to make with Anzola and he told
24 me he was supposed to meet with Anzola the following
25 afternoon at 3 p.m. to bring the \$8,000 in front of a

1
2 restaurant that he knew how to get to but he couldn't give
3 me the exact location.

4 At that time, I had asked Mr. Fayad if he would write
5 down the name Fernando Anzola. I called Special Agent Raburn
6 in at that time and I passed Fayad a matchbook cover and he
7 printed the name Fernando Anzola on that matchbook cover.

8 Agent Raburn was present at the time so we went over
9 the statement again. I again asked him from whom he received
10 the cocaine and again he told me Fernando Anzola. I asked him
11 how much he was to pay, he said \$8,000; \$200 was his.

12 I again asked him when he was supposed to meet Anzola
13 and he said the following day at 3 p.m. in front of a restau-
14 rant in Queens. And he also stated that Anzola lived either
15 at 92nd or 94th Street, I don't recall precisely, and an
16 avenue in the 40s, but he didn't exactly the location.

17 (Continued on Next page.)
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2 in my apartment but I am not sure.

3 Q What kind of a relationship did you have with
4 Mr. O'Brien?

5 A I spoke to him occasionally. He used to call
6 my house to see if my friend Joe was there.

7 Q Excuse me?

8 A To see if my friend Joe was there.

9 Q Did you ever get drugs from Mr. O'Brien?

10 A Previous?

11 Q Yes.

12 A Yes.

13 Q On how many occasions?

14 A Once.

15 Q What kind of drugs?

16 A Cocaine. For myself or did I go with somebody?

17 Q I just asked you if you ever got drugs from
18 Mr. O'Brien.

19 How much cocaine did you get from him on that occasion?

20 A One gram.

21 Q What did you do with that one gram?

22 A I had went with my friend Alex to get it.

23 Q Your friend Alex?

24 A Yes.

25 Q What did you do with the one gram?

1
2 A It wasn't mine.
3 Q When was this?
4 A December, maybe. I am not sure.
5 Q How soon after you met Mr. O'Brien?
6 A Maybe a month. I am not sure.
7 Q Who bought the one gram of cocaine from
8 Mr. O'Brien?
9 A Alex.
10 Q You introduced Alex to Mr. O'Brien?
11 A He met Robby once.
12 Q Did you introduce Robby to Alex at that time?
13 A Yes.
14 Q How did Alex meet Robby the second time, the
15 time he bought the cocaine?
16 A I went with him.
17 Q Did you --
18 A He drove but I went with him.
19 Q How did he know where to go?
20 A Robby told him where to meet him.
21 Q Robby had spoken to Alex?
22 A Yes.
23 Q Had they spoken on the phone?
24 A Yes, at my house.
25 Q How did -- who was at your house, Robby or

1

2 Alex?

3 A Alex.

4 Q You gave Alex Robby's phone number?

5 A No, Robby called up my house.

6 Q Why did Alex come over to your house?

7 A He was visiting.

8 Q When Robby called your house, what did you say
9 to him?10 A I asked him if he could get a gram of cocaine
11 for Alex.12 Q You said this to Robby on the telephone when he
13 called your house?

14 A Yes.

15 Q Do you recall any other part of that conversation?

16 A He just said he could. He spoke to Alex for
17 a minute and told us where to meet him.18 Q When Robby first got on the phone, what did he
19 say?

20 A (No response.)

21 Q The phone rang in your house?

22 A Yes. I answered it. He said, "Paula, how are
23 you." We were talking in general for about five minutes.24 Q Did you ask if he could get the cocaine for
25 Alex?

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A Yes.

Q He said he could?

A Yes.

Q Then you arranged where to meet him?

A Yes.

THE COURT: Who is Alex?

THE WITNESS: A friend of mine.

THE COURT: Has he got a last name?

THE WITNESS: It is a long Greek name, I don't
remember.

Q This was in December of 1974?

A I believe it was December.

Q After that drug transaction, when did you next
see Robby?

MR. KAPLAN: I object to the form, your Honor.

THE COURT: Well, there was a transaction,
was there not?

THE WITNESS: Yes.

THE COURT: It was for drugs?

THE WITNESS: Yes.

THE COURT: Overruled.

A March 7th.

Q From December 1974 until March 7, 1975, you
never saw Robby?

1

A With my friends.

2

Q Your friend Joe brought him to your apartment?

3

A Yes.

4

Q That is Joe Monti?

5

A Yes.

6

Q You bought drugs from Joe Monti, didn't you?

7

A Yes.

8

Q How long a period of time were you buying drugs

9

from Joe Monti?

10

A I don't remember.

11

Q More than a year?

12

A No.

13

Q Since you moved into your apartment?

14

A You mean as soon as I moved into my apartment?

15

Q You moved into your apartment in October?

16

A Middle of September.

17

Q You had been buying drugs from Joe Monti from

18

September '74?

19

A No.

20

Q October?

21

A Since Christmas.

22

Q There came a time when you learned that Robby

23

was supplying was supplying Joe Monti, didn't you?

24

A Yes.

25

1
2 A No.

3 Q There came a time, Miss Dallal, when you learned
4 that Mr. O'Brien likes to deal in drugs in a moving vehicle,
5 he wants to keep moving?

6 MR. KAPLAN: I object to the form.

7 THE COURT: Have you finished?

8 Q He wants to be out of doors, is that right?

9 MR. KAPLAN: I object to the form.

10 THE COURT: Overruled.

11 MR. KAPLAN: I object to the words that she
12 knows he wants --

13 THE COURT: You ask a question, did there come
14 a time when you learned this.

15 THE WITNESS: Yes.

16 Q When was that?

17 A March 7th.

18 Q How did you learn that?

19 A He said so.

20 Q When did he say so?

21 A On March 7th.

22 Q Where was he when he said that?

23 A I believe he was outside of the car.

24 Q Was Agent Cavuto there?

25 A I believe so.

Dallal - cross/Behar

2
A Yes.

Q And he paid you back in March the 7th?

A Yes. I didn't have a car. There was no way
I could get there to get it.

Q Excuse me. I didn't hear you.

A I said I did not have a car. There was no way
for me to get it.

Q You weren't working at this time?

A No.

Q On April 30, Mr. O'Brien gave you a hundred
dollars?

A Yes.

Q And that was your fee for introducing him to
Agent Cavuto?

MR. KAPLAN: I just object to the form, your
Honor.

THE COURT: Overruled.

MR. KAPLAN: I respectfully except.

MR. BEHAR: Can we have the question read again,
please.

THE COURT: He hasn't finished yet. That was
your fee for something.

BY MR. BEHAR:

Q This was your fee for introducing him to Agent

Dallal - cross/Behar

3
Cavuto?

A Yes.

Q First time you had met Robby, Joe Monte was there?

A Yes.

Q Was anybody else there?

A Yes.

Q Who else?

A Irene was there and a few of my other friends.

Q And the day that Alex was over your house when you went with him to Mr. O'Brien, was anyone else there?

A Yes.

Q Who else was there?

A Irene and Alex's friend Pat.

Q And you stated that you've known Jeff for two years?

A Yes.

Q And that you knew him a year and a half ago and you hadn't seen him again until late February of '75, right?

A Yes.

Q Where did you meet Jeff two years ago?

He was on Union Street. There is a park up the block and a lot of --alot of people go and congregate there.

Dallal - cross/Behar

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Q Union Street is where?

3

A In Flushing.

4

Q From what -- how frequently did you meet with Jeff after that first meeting?

5

6

A I didn't. I had just met him there through people. He was selling drugs on Union Street and I met him there.

7

8

9

Q That was the first time you met him?

10

A Yes.

11

Q How long did you meet with him?

12

A I didn't meet with him. There -- it's a part and there is a whole bunch of people there. I was introduced with him and then he asked me if I wanted to buy any drugs.

13

14

Q And what did you say?

15

A No.

16

Q And when did you next see him?

17

A I believe he was at my friend Irene's apartment. She had had an apartment then and he was there with his friend Ronnie.

18

19

Q When was that?

20

A In August of '73. Wait. In either August or October. I'm not sure.

21

22

Q What is the month and year, the first time you met Jeff?

23

24

25

1
2 A I believe it was in the summer of '73.

3 Q The next time you saw him was your friend

4 Irene's apartment?

5 A Yes.

6 Q Was anyone else there?

7 A Yes.

8 Q Who else was there?

9 A A few people that I didn't know. And --

10 Q Who of the people that were there, who did you

11 know?

12 A Irene, her boyfriend and my other friend Debbie.

13 Q And who was Irene's boyfriend?

14 A Mondo.

15 Q And did you have a conversation with Jeff that

16 night?

17 A I don't recall.

18 Q When did you next see Jeff?

19 A I don't remember. I had gotten sick for two

20 and a half months at that point and I don't remember.

21 Q Well, do you remember -- do you recall the next

22 time you saw him?

23 A Not exactly, no.

24 Q Do you recall if you saw him again after that?

25 A No, I don't remember.

Dallal - cross/Behar

1 6

2 Q In fact you might not have seen him again?

3 A I might not have.

4 Q First time that you met him, did -- who intro-
5 duced you to him?

6 A I don't remember if we -- if I was -- I think
7 I was in a group and he walked over and knew some people in
8 the group and then everybody just started talking.

9 I don't really think anybody actually intro-
10 duced me to him.

11 Q Well, do you recall the conversation?

12 A He just asked me and everybody else in the
13 group if anybody wanted to buy any drugs.

14 Q Just walked up to the group and aske if anybody
15 wanted to buy any drugs?

16 A He was talking to some people who he knew in the
17 group.

18 Q Who did you know in the group?

19 A I was with my friend Debbie and I was with
20 Irene, and a few other people I knew as acquaintances.

21 Q Two years later in February of this year,
22 a year and a half later, Jeff called up?

23 A No. He didn't call up.

24 Q Came over?

25 A Yes.

Dallal - cross/Behar

9

A I don't know.

Q Miss Dallal, you've been sitting here and you heard those first three tapes; is that correct?

A Yes.

Q Were those tapes -- was it your voice on those tapes?

A Yes.

Q And did those tapes correctly record those conversations?

A I believe so.

Q You heard Agent Cavuto testify, the first witness at this trial?

A Yes.

Q Was Agent Cavuto's testimony substantially correct?

MR. KAPLAN: I object, your Honor.

THE COURT: No. Overruled.

MR. KAPLAN: I object to the form, substantially.

THE COURT: Overruled.

A I don't remember his whole testimony. I don't remember if there -- if everything was correct.

Q Well, do you recall Agent Cavuto's testimony about the events of the 7th of March?

A Yes.

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Q Was his testimony correct as to those events?

A I believe so.

Q And that was the first day you had met Agent Cavuto?

A Yes.

Q Correct?

And where did you meet him?

A In my apartment.

Q It's correct that when Agent Cavuto walked into that apartment, you told him he was late?

A Yes.

Q And you were referring to the fact that he was late for the drug deal that was going to go on with Robby?

MR. KAPLAN: I object, your Honor.

THE COURT: Overruled.

A Yes.

Q And you told him that Robby told you someone wants to buy a quarter of an ounce?

A Yes.

Q And you told him he was supposed to be here at -- be there at your apartment at 4:00 o'clock?

A I don't remember if that was the exact time.

Q And you told Agent Cavuto that you told Robbie to go ahead and sell the quarter of an ounce?

11

Dallal - cross/Behar

1 A Yes.

2 Q And then you told Agent Cavuto that the price
3 of three-quarters of an ounce that's left would be \$900?

4 A Yes.

5 Q And then Agent Cavuto asked you about the
6 quality of the cocaine that you were going to arrange for him
7 to get; is that correct?

8 A I believe he did, yes.

9 Q And you told Agent Cavuto, "Don't worry, I brought
10 other people to O'Brien and they counted the grams and there
11 was never any problem"?

12 A Yes.

13 Q What were you doing at that time? Were you
14 waiting for a phone call from O'Brien?

15 A Yes.

16 Q And did you tell Agent Cavuto --did you have
17 another conversation with Agent Cavuto while you were waiting
18 for that phone call?

19 A I believe so.

20 Q And you asked Agent Cavuto if he wanted to
21 purchase a Thai stick, didn't you?

22 A Thai stick, yes.

23 Q What is a Thai stick?

24 A It's marijuana.

25

2 Q Did you show him anything at that time?

3 A Yes.

4 Q What did you show him?

5 A Marijuana.

6 Q Where did you get the Thai stick?

7 A From a friend.

8 Q Who?

9 A I don't remember.

10 Q Was it a male friend or a female friend?

11 A I think it was a male friend.

12 Q You don't remember his name?

13 A No.

14 Q Agent Cavuto told you he wasn't interested
15 in buying that, didn't he?

16 A Yes.

17 Q And you showed Agent Cavuto something else,
18 didn't you?

19 A Yes.

20 Q What was that?

21 A Marijuana.

22 Q Gold, right?

23 A Yes. Golden color.

24 THE COURT: You showed him some golden color
25 marijuana?

THE WITNESS: Yes.

THE COURT: In what form?

THE WITNESS: In a plastic bag, a little bag.

THE COURT: All right.

BY MR. BEHAR:

Q IT was about an ounce of that, wasn't there?

A Yes.

Q Did you offer to sell th & to Agent Cavuto?

A Yes.

Q What did you want for that?

A I don't remember.

Q Where did you get that marijuana?

A I don't remember.

Q You remember if it was a male or a female?

A I think it was a male. I don't remember.

Q Do you remember if it was a relative or a friend?

A I don't remember.

Q How long had you had the gold colored marijuana in your house?

A I don't remember.

Q How long have you had the Thai stick in your house?

A I don't remember.

14

Dallal - cross/Behar

Q After that, Mr. O'Brien called?

A Yes.

Q And you told Agent Cavuto that you were going to meet Mr. O'Brien at 34th Avenue and 86 -- and 81st Street?

A Yes.

Q At 5:30?

A I believe that was the time.

Q And then you went down into the car, Agent Cavuto's Volkswagen?

A Yes.

Q Correct?

A Yes.

Q Was it a yellow Volkswagen?

A I don't remember the color.

Q And where did you sit?

A In the back.

Q And at that time Agent Cavuto showed you the \$900; right?

A Yes.

Q After a while, you arrived at the location across -- in front of the church?

A Yes.

Q And between the church and the apartment house next door, there is an alleyway; isn't there?

15

Dallao - cross/Behar

1
2 A Yes.

3 Q And at that time, you pointed to that alleyway
4 and you told Agent Cavuto that Robby often comes down that
5 alleyway, didn't you?

6 A Yes.

7 MR. BEHAR: Excuse me, your Honor.

8 Q A couple of minutes later Robert O'Brien
9 came down that alleyway; didn't he?

10 A I think so.

11 Q Then you walked over to Mr. O'Brien, didn't
12 you?

13 A Yes.

14 Q And you had a conversation with Mr. O'Brien
15 first, didn't you?

16 A Yes.

17 Q Do you recall that conversation?

18 A No.

19 Q Then you brought O'Brien over to meet Agent
20 Cavuto?

21 A Yes.

22 Q And you and O'Brien got in the back of the car
23 and Agent Cavuto got back in the driver's seat of the
24 Volkswagen; is that correct?

25 A Yes.

16 Dallal - cross/ Behar

Q And then you heard Agent Cavuto and you heard Mr. O'Brien testify about the transaction that went on in the car at that point, didn't you?

A Yes.

Q Were they both correct as to that?

A Yes.

Q And Agent Cavuto tested the cocaine and there came a time when Agent Cavuto paid Mr. O'Brien and O'Brien got out of the car?

A Yes.

Q When did O'Brien give you the \$70.00?

A Before the transaction. In an envelope.

Q While you were sitting together in the back seat?

A Yes.

Q After O'Brien got out of the car, you had a conversation with Agent Cavuto; is that correct, Miss Dallal?

A Yes.

Q And at that time Agent Cavuto asked you if O'Brien would take care of you for making the introduction?

A He ---

Q Is that right?

A Yes. He asked me that several times.

Q And you told him that the \$70.00 was something

17 Callal - cross/Behar

he had owed you but he would take care of you at a later time?

A Yes, I told him that.

Q The next time you saw him?

A Yes.

Q Agent Cavuto was correct about that?

A Yes.

Q Did you actually see the package that Mr. O'Brien gave to Agent Cavuto?

A Yes.

Q Is that package inside there, does that look like the package?

A It looks like it.

Q After you left Agent Cavuto on the 7th of March, the next time you spoke to him was on the 20th?

A I don't remember the dates.

Q About two weeks after the transaction?

A I guess so but I don't remember the dates.

Q Do you recall speaking to Agent Cavuto in your apartment on March 20?

A I know he came over twice after that transaction. I do not remember the dates.

Q When you say twice after that transaction, you mean between the transaction on March the 7th and the

9 Dallal - cross/Behar

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Q Was he correct in his testimony?

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A I believe so. I don't remember the whole testimony.

4

5

Q Was he correct when he said that you had told him that you had heard from Robby and that it was set for either Tuesday or Wednesday?

6

7

A Yes.

8

9

10

11

12

Q Was he correct when he said but you told him "We do it on Wednesday," and that you said that Robby had told you you wouldn't believe the quality of this ounce compared to the last time? The price would be 1300?

13

A I believe so.

14

15

16

Q And then you asked him to call you the following evening?

17

A I think so.

18

19

20

Q And he did call you the following evening, didn't he?

21

A Yes.

22

23

24

Q And was Agent Cavuto correct when he testified about that conversation?

25

A Yes.

26

27

28

29

A Yes.

10 Dallah - cross/Behar

Q And he called you back the next day, didn't he?

A Yes.

Q Was Agent Cavuto correct when he testified about that conversation?

A Yes.

Q Did you tell him to call you back Wednesday, the following day, at 7:00 -- around 7:00 o'clock?

A I don't remember what time I told him to call me back.

Q But you did tell him to call you back?

A Yes.

Q Was he correct when he testified that you told him that Robby hadn't called yet and you should -- and he should call you back in 15 minutes?

A Yes.

Q And he did call you back, didn't he?

A Yes.

Q And was he correct when he testified that you told him that Robby said it was set and that Agent Cavuto should pick you up on Bell Boulevard?

A Yes.

Q And Agent Cavuto did pick you up on Bell Boulevard?

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A Yes.

O In the Corvette?

A Yes.

O You were standing out in front of the house on
Bell Boulevard?

A Yes.

O And did you tell Agent Cavuto that you would
meet O'Brien at the same place you met him last time?

A Yes.

O And O'Brien -- you went to that location and
O'Brien arrived there? Agent Cavuto was correct about that?

A Yes.

O And it was a conversation about Indian jewelry
when O'Brien first arrived?

A Yes.

O AND Agent Cavuto then said, "Let's get started"?

A Yes.

O Got back into the Corvette?

A Yes.

O You got in between O'Brien and Agent Cavuto?

A Yes.

O AND at that time O'Brien sold Agent Cavuto
this package of cocaine?

A Yes.

1

Q Agent Cavuto paid Mr. O'Brien \$1300?

2

A Yes.

3

Q And Mr. O'Brien turned around and handed you

4

5 100?

A Yes.

6

Q Agent Cavuto was correct in all that testimony?

7

A Yes.

8

Q Was Agent Cavuto correct when he stated he had

9

10 a conversation with O'Brien about the quality of the cocaine,
11 the chunkiness and the rocks?

A I wasn't really listening.

12

Q Do you recall Mr. O'Brien talking about the

13

14 Merck?

A No, I don't believe he spoke about that then.

15

Q Do you recall Mr. O'Brien getting out of the

16

17 car?

A Yes.

18

Q And Agent Cavuto was correct when he said

19

20 he dropped Mr. O'Brien off and the three of you got out of
21 the car at that point?

A Yes.

22

(continued next page.)

23

MP flws.
24

25

1
2 Exhibit 6 in Evidence.

3 A That is my handwriting (indicating).

4 Q That is your handwriting?

5 A Yes.

6 Q That's the telephone number you wrote down at
7 the time Agent Cavuto testified, is that correct?

8 A Yes.

9 Q Was Agent Cavuto correct when he said at that
10 point that you said to him that he and your girlfriend had
11 made a list of the different people you had dealt with?

12 A I don't remember.

13 Q Was he correct when he testified that you told
14 him at that point that it came out to 68 people?

15 A I don't remember saying that.

16 Q Was Agent Cavuto correct when he said he then
17 drove you back to Bayside and let you out in the vicinity of
18 your parents' home?

19 A Yes.

20 Q How many people had you and your girlfriend
21 sold to?

22 A We weren't selling drugs.

23 Q Excuse me?

24 A We were not selling drugs.

25 Q How many people had you set up introductions

1
2 Q How about the ounce of marijuana?

3 A I don't remember.

4 MR. BEHAR: No further questions, your Honor.

5 REDIRECT EXAMINATION

6 BY MR. KAPLAN:

7 Q Miss Dallal, you remember when you were arrested?

8 A Yes.

9 Q You remember the date?

10 A Yes.

11 Q What date was it?

12 A June 18th.

13 Q Where were you at the time?

14 A 35th Street and Sixth Avenue.

15 Q Where were you going?

16 A To work.

17 MR. BEHAR: Your Honor, I object. This is
18 totally without the scope --

19 THE COURT: Maybe --

20 MR. KAPLAN: After two and a half hours he says
21 it's not --

22 THE COURT: You may go on.

23 MR. KAPLAN: Oh.

24 THE COURT: As far as it being outside of the
25 scope, it probably is but I will allow it.

1

2

3

you?

4

Q Would you tell the Court and jury who arrested

5

A Agent Cavuto and another agent.

6

Q Would you describe what happened at that arrest?

7

A He told me I was under arrest.

8

Q What did you say?

9

A If I could see the warrant.

10

Q Had you known that Robby was already arrested?

11

A Yes.

12

Q Did you attempt to flee or anything like that?

13

A No.

14

MR. BEHAR: Objection, your Honor.

15

THE COURT: Sustained.

16

Q Then what happened?

17

A He showed me the warrant. I told him I wasn't

18

going anyplace with him.

19

Then the other agent said, "I have to use the hand-

20

cuffs." I said, "I will go."

21

I got in the car and started crying and I asked why

22

he forced me to do it. Why did he make me do it.

23

Q Who did you say that to?

24

A Agent Cavuto.

25

Q What did he answer?

A He didn't say a word. He just took out a piece

1
2 Q Was this prior to March 7th?

3 A No.

4 Q Prior to March 20th?

5 A No.

6 Q When was it?

7 A After March 20th.

8 Q Did there come a time that Mr. Cavuto and you --
9 withdrawn.

10 Now, you took pills you testified, is that right?

11 A Yes.

12 Q How about Irene, did she take pills?

13 A Yes.

14 Q How about this fellow Ronnie, did he take pills?

15 A I think he did.

16 Q How about Joe, did he take pills?

17 A Excuse me?

18 Q Joe.

19 A Yes.

20 Q How about the other friends that you had in the
21 apartment, did they take pills?

22 A Not everybody.

23 Q What percentage of the friends you had took
24 pills?

25 A I don't remember. Not all of them.

9 Fayad - direct

A Yes.

Q And why did you give that address to the Government agents?

MR. BEHAR: Objection, your Honor.

THE COURT: I will allow it.

A Because my wife was pregnant, in advanced pregnancy, and I didn't want her to be bothered.

Q Did you commit the crimes which the Government has charged you with in this Court?

A No.

Q Did you deliver cocaine to Robert O'Brien on April 30, 1975?

A No.

Q Did you deliver cocaine to Robert O'Brien on May 21, 1975?

A No.

Q Did you join in with Robert O'Brien and Paula Dallal to sell cocaine -- I'm sorry. Withdrawn.

Did you join in with Robert O'Brien and Paula Dallal to sell cocaine before May 21, 1975?

MR. KAPLAN: I object to the question, your Honor.

THE COURT: Between March 30, 1975, and May 21, 1975, I will allow it.

2 1 THE FORELADY: Guilty.

2 THE CLERK: You say you find the defendant Paula
3 Dallal guilty on Count 1, 2 and 4, and you find the
4 defendant Carlos Fayad not guilty on Count 2, guilty
5 on Count 3 and guilty on Count 4 and so say you all.

6 THE COURT: Poll the jury.

7 THE CLERK: JurorNo. 1, is that your verdict?

8 JUROR NO. 1: Yes.

9 THE CLERK: Juror No. 2, is that your verdict?

10 JUROR NO. 2: Yes.

11 THE CLERK: Juror No. 3, is that your verdict?

12 JUROR NO. 3: Yes.

13 THE CLERK: Juror No. 4, is that your verdict?

14 JUROR NO. 4: Yes.

15 THE CLERK: Juror No. 5, is that your verdict?

16 JUROR NO. 5: Yes.

17 THE CLERK: Juror No. 6, is that your verdict?

18 JUROR NO. 6: Yes.

19 THE CLERK: Juror No. 7, is that your verdict?

20 JUROR NO. 7: Yes.

21 THE CLERK: Juror No. 8, is that your verdict?

22 JUROR NO. 8: Yes.

23 THE CLERK: Juror No. 9, is that your verdict?

24 JUROR NO. 9: Yes.

25 THE CLERK: Juror No. 10, is that your verdict?

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

EVELYN COHEN, being duly sworn, says that on the 9th

day of December, 1975-----, I deposited in Mail Chute Drop for mailing in the
U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and
State of New York, a Government's Appendix-----
of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper
directed to the person hereinafter named, at the place and address stated below:

Louis A. Tirelli, Esq.-----~~Kenneth Kaplan, Esq.~~
52 So. Main Street
Spring Valley, N.Y. 10977-----~~666 Fifth Avenue~~
~~New York, N.Y. 10022~~

Sworn to before me this
9th day of December 1975.

[Signature]
JOSE S. MORGAN
Notary Public, State of New York
N.Y. 24-501966
Qualified in Kings County
Commission Expires March 30, 1977

[Signature]

